HIGH COURT OF CHHATTISGARH, BILASPUR

Single Bench: Hon'ble Shri Dilip Raosaheb Deshmukh, J.

M.A. (C) No. 989 of 2007

Appellant : Ashok Singh aged about 32 years, S/o Baijnath Singh, R/o Shop no. 83, Zone-2, Khursipaar, Bhilai, District Durg (C.G.)

Versus

Respondents : 1. Mahendra Singh, S/o Jagir Singh, R/o South S.T.D. Anand, District Anand (Gujrat) (Driver of Offending Vehicle Truck No. GJ-07/X/6014)

: 2. National Insurance Company Ltd. Through Regional Manager National Insurance Company Ltd., Aakash Ganga complex, Supela, Bhilai, District Durg, Insurance Company of Offending Vehicle No. GJ-07/X/6014

Memorandum of Appeal under Section 173 of Motor Vehicle Act, 1988

Present:-
Shri Anuraag Jha, counsel for the appellant.

ORAL ORDER
(Passed on 13.11.2007)

Heard on admission.

2. Counsel for the appellant has furnished a copy of statement of Dr.A.K.Yadav recorded by M.A.C.T., which is taken on record.

3. In this appeal for enhancement of compensation, the appellant is aggrieved by an award dated 21.03.2007 passed by 11th Motor Vehicle Accidents Claims Tribunal (F.T.C.), Durg (hereinafter referred to as the M.A.C.T.) in claim case No.19/2005 whereunder, in an injury case, compensation of Rs.38,000/- was awarded.

4. It is not disputed that the appellant did not examine the treating Doctor before the M.A.C.T. It is also not in dispute that the appellant did not furnish

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proof of sustaining a grievous injury, due to the accident, before the M.A.C.T. by proving the MLC report or by examining Doctor. So far as the evidence of Dr. A. K. Yadav and the disability certificate issued by him is concerned, the statement of Dr. A.K.Yadav recorded by the M.A.C.T. shows that he had first examined the appellant/claimant on 02.07.2006 whereas the accident occurred on 19.02.2004. Dr. A.K.Yadav had further admitted in cross-examination that he never treated the appellant/claimant and had seen him for the first time on 02.07.2006 when he came to the hospital for obtaining a disability certificate. He also mentioned that he had got the X-ray of the claimant done but the X-ray report has also not been filed by the appellant/claimant. In this view of the matter, no ground for enhancement of compensation awarded by the M.A.C.T. is made out.

5. The appeal being devoid of merit is dismissed at the stage of admission.

Sd/-
Dilip Raosaheb Deshmukh
Judge

Anjani